



JUDICIAL INVESTIGATION COMMISSION

212 Dickinson Street
Post Office Box 1629
Charleston, West Virginia 25326-1629
(304) 558-0169 FAX (304) 558-0831

October 1, 1997

Dear

Your letter to Counsel to the Judicial Investigation Commission referencing _____, was reviewed by the Commission at its recent meeting. In your correspondence you stated that you believed that _____ had deliberately, maliciously, and dishonestly committed false swearing against you in this complaint in violation of West Virginia Code §61-5-2 or other applicable law. You stated you were considering seeking a criminal warrant against him for that criminal offense or taking other appropriate legal action.

You asked whether, at this time, in accordance with Commission's Rules, Regulations, Practices, Procedures, and Guidelines, it is permissible for you to disclose and use the false sworn statements made by _____ in the complaint particularly the claim that you "forced" your way into a magistrate's office and thereby damaged a door. You asked whether you could use the allegation as a material part of your seeking an appropriate criminal warrant or taking other appropriate legal action against _____ in state or federal courts.

The West Virginia Rules of Judicial Disciplinary Procedure provide in Rule 2.4 that:

The details of complaints filed or investigations conducted by the Office of Disciplinary Counsel shall be confidential, except that when a complaint has been filed or an investigation has been initiated, the Office of Disciplinary Counsel may release information confirming

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or denying the existence of a complaint or investigation, explaining the procedural aspects of the complaint or investigation, or defending the right of the judge to a fair hearing. Prior to the release of information confirming or denying the existence of the complaint or investigation, reasonable notice shall be provided to the judge.

Rules 2.4 requires that all matters handled by the Judicial Investigation Commission remain confidential.

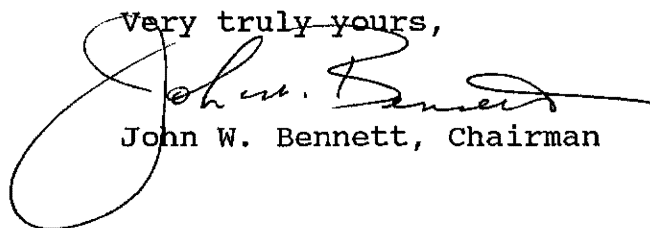
The West Virginia Rules of Judicial Disciplinary Procedural provide in Rule 2.5 that:

All information provided, documents filed or testimony given with respect to any investigation or proceeding under these Rules shall be privileged in any action for defamation. All members of the Commission, the Judicial Committee on Assistance and Intervention, the Office of Judicial Disciplinary Counsel, and their employees, shall be absolutely immune from civil suit in the same manner as members of the judiciary in this State for any conduct in the course of their official duties.

This Rule gives a protection of privilege and immunity over matters asserted in complaints filed with the Commission.

Based upon the language contained in these two Rules, the Commission feels that the matters asserted in Complaint No. 124-97 are confidential and that you should not use any of the allegations made in the complaints to address those matters which you set forth in your letter. If you have any further question regarding this matter, do not hesitate to contact the Commission.

Very truly yours,

A large, stylized handwritten signature in dark ink, appearing to read "John W. Bennett". The signature is written over the typed name and title.

John W. Bennett, Chairman

JWB/bl